IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8655 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHASKAR @ RAJU LAXMISHANKAR DAVE

Versus

COMMISSIONER OF POLICE

Appearance:
MS KD PARMAR for Petitioner
MS HARSHA DEVANI, ld.AGP for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/10/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the petitioner's detention order dated 21st June 2000 passed by the Police Commissioner, Surat City, Surat detaining the petitioner under the provisions of the

Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is detained at Central Jail, Sabarmati, Ahmedabad since 21st June 2000.

No reply to the petition has been filed. The grounds enclosed with the detention order show that six criminal cases were registered against the petitioner as under:

(i) CR No.239/99 dated 5th August 1999 under Sec.379 of IPC for which the petitioner was arrested on 5th March 2000.

(ii) CR No.247/99 for the offences under Sec.379 of IPC for offences dated 15th August 1999 for which the petitioner was arrested on 4th March 2000.

(ii) CR No.257/99 for the offences under Sec.379 of IPC dated 12th Sept.1999 for which he was arrested on 6th March 2000.

(iv) CR No.300/99 under Sec.379 of IPC dated 3rd Dec.1999 for which he was arrested on 5th March 2000.

(v) CR No.33 of 2000 under Sec.379 of IPC for which the petitioner was arrested on 6th March 2000.

(vi) CR No.34 of 2000 for the offence under Sec.379 of IPC dated 29th Feb.2000 for which he was arrested on 3rd March 2000.

The grounds of detention show that in all these matters, the chargesheets had been filed in the Court against the petitioner, but he had not been released and the petitioner was in judicial custody at the time when the detention order was passed. The detaining authority found that the petitioner could be released on bail at any time. In the context of the allegations against him in the aforesaid criminal cases and also with reference to the incidents dated 26th January 2000 and 13th Feb.2000 for which the depositions were made by the witnesses against the petitioner, the provisions of Sec.9(2) of the Act were invoked. The statements of witnesses were recorded on 12th April 2000 and 3rd May 2000, the same were verified by the detaining authority on 13th June 2000 and the detention order was passed against the petitioner thereafter on 21st June 2000. On the basis of the aforesaid activities, the detaining

authority found the petitioner to be a dangerous person and it has also been found that there was no other alternative but to detain the petitioner so as to prevent him from continuing his unlawful and anti social activities.

It has also been submitted that a representation was made by the petitioner against his detention order on 11th July 2000, the rejection of which was conveyed to him on 26th July 2000. The allegations relating to the six criminal cases and the depositions as have been made by the witnesses against his unlawful and anti social activities with regard to the unregistered cases, may at the most, amount to breach of law and order, but on the basis of these allegations and the allegations relating to the criminal cases, it cannot be said to be a case of breach of public order.

For the reasons as aforesaid, the impugned detention order dated 21st July 2000 passed against the petitioner by the Police Commissioner, Surat City, Surat cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner Bhaskar @ Raju Laxmishankar Dave detained at Central Jail, Sabarmati, Ahmedabad since 21st June 2000 shall be released forthwith if not required in any other case. This Special Civil Application is allowed. Rule is made absolute.

(M.R. Calla, J.)